

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DAVID L. WATKINS, #219698,)
Petitioner,)
v.) CASE NO. 2:07-CV-1040-MHT
WARDEN DANIEL, et al.,)
Respondents.)

ORDER

In his response filed on January 10, 2008 (Court Doc. No. 10), the petitioner argues that the court should ignore the untimeliness of his petition because he is actually innocent of murder and failure to address his claims for relief would result in a fundamental miscarriage of justice. The court therefore construes this document to contain a motion to amend. Accordingly, it is

ORDERED that the motion to amend be and is hereby GRANTED. It is further ORDERED that on or before February 8, 2008 the respondents shall file a supplemental answer which addresses the petitioner's argument that to bar review of his petition by application of the limitation period would constitute a fundamental miscarriage of justice because he is actually innocent of the crime for which he was convicted.

Done this 11th day of January, 2008.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE